IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

MONDAY, THE 2ND APRIL 2007 / 12TH CHAITHRA 1929

WP(C).No. 4854 of 2004(C)

PETITIONER:

AXIS TECHNOLOGIES, KRISHNA BUILDINGS,
S.R.M. ROAD, KOCHI-18, REPRESENTED BY ITS
PROPRIETOR, SUNIL GEORGE, S/O. K.R. GEORGE,
AGED 38 YEARS, KOLLAMPARAMBIL,
MANDAKKARA ROAD, NEAR H.P.C., KOCHI-14.

BY ADV. SRI.P.M.ZIRAJ

RESPONDENTS:

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1. THE EXECUTIVE ENGINEER,
P.W.D. ROADS DIVISION, ERNAKULAM.

2. THE SECRETARY, CORPORATION OF KOCHI
ERNAKULAM.

3. THE ASSISTANT COMMISSIONER OF POLICE
TRAFFIC (WEST), KOCHI CITY,
ERNAKULAM.

BY ADV. SRI.NOBLE MATHEW
GOVERNMENT PLEADER SRI.K.V.MANOJ KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 02/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P(C)No.4854/2004

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. TRUE COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY THE THIRD RESPONDENT TO THE PETITIONER DATED 13-1-2004.

EXT.P2. TRUE COPY OF THE REPLY ISSUED BY THE FIRST RESPONDENT DATED 21-1-2004 TO THE REPRESENTATION SUBMITTED BY THE PETITIONER.

RESPONDENTS' EXHIBITS:

EXT.R2(a). PHOTOCOPY OF THE REPLY GIVEN TO THE 1ST RESPONDENT DATED 17-2-2004.

/ TRUE COPY /

P.S.TO JUDGE

KURIAN JOSEPH, J.

W.P(C)No. 4854 of 2004

Dated this the 2nd day of April, 2007

JUDGMENT

The writ petition is filed with the following prayers:-

1. Issue a writ of mandamus or other appropriate writ or direction to the 2nd respondent not to remove the tree guards constructed by the petitioner.

2. Declare that Ernakulam M.G.Road from Pharmacy Junction to Thevara is under the State PWD and the same is under the jurisdiction of the 1st respondent as per the Kerala Highway Protection Act 1999 and the 2nd respondent has no right or authority over the said road.

3. Direct the 2nd respondent to reconstruct the tree guards removed by them at the expense of the 2nd respondent.

4. Direct the 2nd respondent to give compensation to the petitioner for the illegal removal of tree guards.

Apparently the matter will have to be decided by the Government. Therefore, this writ petition is disposed of as follows. The petitioner may file an appropriate representation before the Secretary to Government, Public Works Department, within a period of two months from today with copy to the respondents, in which event the Secretary to Government, Public

Works Department will consider and dispose of the matter with notice to the petitioner and respondents 2 and 3 and pass appropriate orders in accordance with law within another four months.

(KURIAN JOSEPH, JUDGE)

ahg.